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Section 86-1.36

reserved

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86-1.37 Fund administration. (a) The commissioner or his designee shall create and administer the following pools of funds in each region defined in this section: a financially distressed hospital pool which will be funded by the allowances provided in section 86-1.11(g)(8) of the Subpart;

These pools shall be established for each of the following regions: Long Island (Nassau and Suffolk Counties); New York City (Richmond, Manhattan, Bronx, Queens and Kings Counties); Northern Metropolitan (Delaware, Columbia, Ulster, Sullivan, Orange, Dutchess, Putnam, Rockland and Westchester Counties); Northeastern Blue Cross Region; Utica/Watertown Blue Cross Region; Syracuse Blue Cross Region; Rochester Blue Cross Region; Western Blue Cross Region. Hospitals not participating as of December 31, 1985 in the regional bad debt and charity care pools established pursuant to section 86-1.11 of this Subpart and no longer exempt from the provisions of section 2807-a of the Public Health Law shall be assigned to a region for purposes of calculating the bad debt charity care add-on percentage and making distributions from such pool pursuant to subdivision (p) of section 86-1.11 of this Subpart. Assignment to a region shall be based upon but not limited to the following factors:

- (1) Numbers and types of hospitals within the region and
 - (2) Geographical proximity of the hospital requiring such assignment to a particular region.
- (b) Monthly, each of the major third-party payors (Medicare, Medicaid and article 9C and article 44) will issue separate checks based upon the pool allowances to the pool administrator for each region, based on inpatient hospital claims with a service date on or after January 1, 1983 which were paid for the preceding month: one for the financially distressed hospital pool, and one for the bad debt/charity care pool.
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category. For 1984 and 1985 the proxy for the "all other payor" category shall be similarly computed using the facility's 1983 and 1984 RCCAC logs, respectively. The facility shall pay to the pool administrator the regional allowances based upon these proxies on a monthly basis, by issuing three checks, one for each pool. Payments for January, February and March of 1983 must be submitted to the pool administrator on or before July 31, 1983. Payments for the months thereafter shall be submitted on or before the 20th day of the fourth month following the calendar month to which the payment applies. The January and February payments to be made to the pool administrator on or before May 20th and June 20th of each year shall be based upon the previous year's proxy. The methodology used to determine the proxy for the 1983, 1984 and 1985 payments received for the "all other payor" category shall not thereafter be adjusted to actual using cash receipts. However, on or about July 1, of each year when the previous year's RCCAC data becomes available, facilities shall recalculate their annual liability for pool contributions for the previous year using this data. This recalculated amount shall also represent a new estimated liability for the current year. Facilities shall compare the newly calculated annual liability for the previous year to

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(d) Concurrent with the submission of pool contribution checks, hospitals shall submit to the pool administrator, information for the "all other payor" category of the facility's RCCAC logs regarding patient days, gross charges, nonpatient care gross charges, such as telephone, television and personal care items, inpatient bad debt and charity care at gross charges, and payments received from billings to Workers' Compensation, No-Fault, and other per diem payors not included in the "all other payor" category, together with such other information as shall be deemed necessary by the commissioner or his designee, to verify the amounts due the pools.

(e) If any hospital shall fail to timely file reports or submit checks in accordance with subdivision (d) of this section, then the distribution of any funds to such hospital

will be withheld until such time as the reports and checks are appropriately submitted by such hospital. In addition, in the event that a hospital will have 30 days from the date of receipt of notification to provide the required reports and checks. Failure to file the reports and checks within this 30-day time period will result in the withholding of 10 percent of that hospital's payments from all major third-party payors until such time as the required reports and checks are received by the pool administrator.

(f) The commissioner or his designee shall receive and invest funds for the aforementioned pools and distribute such funds according to subdivision

(g) of sections 86-1.11 and 86-1.36 of this Subpart. Where the distribution of funds is not dependent on the processing of an application for the funds, the administrator of the pool will distribute any available funds to hospitals by the tenth business day of the month following the month in which such funds were received from the major third-party payors will be made on or before March 14, 1983.

(g) During 1983 in the initial funding process of the pools, the immediate demand for funds from a particular pool may exceed the available funds in such pool. Also, because of a lag in distribution from some pools associated with the application process, some pools may have cash available beyond immediate distribution needs. In order to meet distribution needs as they arise, the commissioner or his designee, may, in 1983, allow borrowing from one pool to another within a region. In no event, however, will such borrowing be allowed

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by one pool from other pools in an amount in excess of projected amounts to be paid for the year by the major third-party payors to the borrowing pool, and in no event will borrowing be permitted if it will impair the ability of the lending pool to meet its distribution needs. All amounts borrowed shall be fully repaid during the first half of 1984.

(h) The major third-party payors shall provide the commissioner or his designee, at the time of check submission, with reports showing the paid claims by region, including, but not limited to the name of each hospital, patient days paid, and the computation by region and by pool of the amounts for which payments to the pools are made.

(i) The commissioner or his designee shall retain amounts in each regional pool, as are projected to be necessary to cover any payments due to third-party payors because of retroactive rate adjustments.

(j) The commissioner is authorized to make contingent distributions from the financially distressed hospital pool upon filing of this regulation, to hospitals participating in the transitional reimbursement program as of December 31, 1982 and to such other hospitals as are found by the commissioner to be in serious financial jeopardy, in amounts necessary to stabilize and maintain operations, taking into account available pool funds. Distributions shall be contingent upon subsequent determinations by the commissioner of hospital participation in the financially distressed hospital pool pursuant to standards to be adopted by the State Hospital Review and Planning Council. After these determinations by the commissioner, any contingent amounts to which such hospitals are found by the commissioner to be unentitled shall be repaid by the hospitals to the pool.

(k) Fund administration in 1986 and 1987 regional pools. The commissioner or his designee shall establish and administer the pools created by the provisions of subdivision (p) and (q) of section 86-1.11 of this Subpart according to the criteria contained in this section applicable to the period January 1, 1985 through December 31, 1985, with the following exceptions for regional pools:

(1) Article 43 corporations and Medicaid shall each issue separate monthly checks to the regional bad debt and charity care pools and to the regional financially distressed facility pools.

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(3) Concurrent with the submission of pool contribution checks, hospitals shall submit to the pool administrator information from the "all other payor" category of the facility's RCCAC logs regarding patient days, gross charges, nonpatient care gross charges, such as telephone, televisions and personal care items, inpatient bad debt and charity care at gross charges, and payments received from billings to Workers' Compensation, No-Fault, article 44 corporations, and other per diem payors not included in the "all other payor" category, together with such other information as shall be deemed necessary by the commissioner or his designee, to verify the amounts due the pools.

(4) If any hospital shall fail to timely file reports or submit checks in accordance with paragraph (3) of this subdivision, the distribution of any funds to such hospital in accordance with the distribution schedule in subdivisions (p) and (q) of section 86-1.11 of this Subpart shall be withheld until such time as the reports and checks are submitted by such hospital. In addition, in the event that a hospital fails to timely submit the required reports and checks, the hospital will have 30 days from the date of receipt of notification to provide the required reports and checks. Failure to file the reports and checks within this 30-day time period will result in the withholding of 10 percent of that hospital's payments from both major third-party payors until such time as the required reports and checks are received by the pool administrator.

(5) The commissioner or his designee shall receive and invest funds for the aforementioned pools and distribute such funds according to subdivisions (p) and (q) of section 86-1.11 and section 86-1.36 of this Subpart. Where the distribution of funds is not dependent on the processing of an application for the funds, the administrator of the pool will distribute any available funds to hospitals by the tenth business day of the month following the month in which such funds were received from both major third-party payors.

(6) Article 43 corporations and the New York State Department of Social Services shall provide the commissioner or his designee, at the time of check submission, with reports showing the paid claims by region, including but not limited to the name of each hospital, patient days paid, and the computation by region and by pool of the amounts for which payments to the pools are made.

(7) The commissioner or his designee shall retain amounts in each regional pool as are projected to be necessary to cover any payments due to third-party payors because of retroactive rate adjustments.

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